

**Minutes of Regular Meeting of May 14, 2013**

**One Twin Pines Lane, Belmont, CA**

**SPECIAL MEETING**

**CLOSED SESSION 7:00 P.M.**

- A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS - Government Code Section 54956.8.  
Property: APN 043-021-010 and 043-021-380 Agency negotiators: Greg Scoles, Scott Rennie. Negotiating parties: City of Belmont and Javad Rahimian. Under negotiation: Price and terms of payment for sale of undeveloped City property adjoining Bishop Road

Attended by: Councilmembers Wozniak, Braunstein, Feierbach, Warden, Lieberman, City Manager Scoles, City Attorney Rennie, Community Development Director de Melo, Finance Director Fil. City Clerk Cook was excused from attending.

**ADJOURNMENT** at this time being 7:35 P.M.

**Terri Cook**

**City Clerk**

This meeting was not tape recorded or videotaped

**REGULAR MEETING**

**CALL TO ORDER 7:40 P.M.**

**ROLL CALL**

COUNCILMEMBERS PRESENT: Feierbach, Lieberman, Braunstein, Warden, Wozniak

COUNCILMEMBERS ABSENT: None

Staff Present: City Manager Scoles, City Attorney Rennie, Deputy Fire Chief Gaffney, Community Development Director de Melo, Parks and Recreation Director Gervais, Public Works Director Oskoui, Interim Information Services Manager Eggers, City Treasurer Violet, City Clerk Cook

## **PLEDGE OF ALLEGIANCE**

Led by Parks and Recreation Director Gervais.

## **REPORT FROM CLOSED SESSION**

City Attorney Rennie reported that direction was given but no action taken during the Closed Session held earlier.

## **PUBLIC COMMENTS AND ANNOUNCEMENTS**

**Ellie Anderson**, Belmont Library, described upcoming activities at the Library, including Study Night for students, and the Summer Reading Program.

## **SPECIAL PRESENTATIONS**

### **Proclamation Declaring Public Works Week**

Mayor Wozniak read the Proclamation. Public Works Director Oskoui outlined activities that would be taking place at the Public Works Open House.

### **Proclamation Honoring Rita Gleason, Retiring Notre Dame High School Principal**

Mayor Wozniak read the Proclamation.

**Rita Gleason**, Retiring Notre Dame High School Principal, pointed out that Notre Dame and the City of Belmont grew up together. She described the long-term partnership and collaboration between the school and the City. She noted that her successor will continue the high standards of the school.

Mayor Wozniak thanked Ms. Gleason for maintaining contact with the community.

Councilmember Feierbach noted that Ms. Gleason solved neighborhood issues through a model outreach program.

Councilmember Warden stated that there never were significant issues with the institution, and any issues were resolved peacefully.

Councilmember Lieberman commented on Ms. Gleason's inspired leadership and pointed out that many Notre Dame students go on to do good things in their communities.

Councilmember Braunstein commended Ms. Gleason for holding outreach meetings regardless of the number of attendees.

**Proclamation Honoring Kevin Sullivan, Parks and Recreation Commissioner, for Outstanding Public Service**

Mayor Wozniak read the proclamation. She commended Mr. Sullivan for publicizing the need for help with trail development at Waterdog Lake.

**Recology San Mateo County 2012 Solid Waste Annual Report**

Tammy Del Bene and Gino Gasparini from Recology provided an update on Recology's activities in 2012. Mr. Gasparini stated that Recology participated in the recent Earth Day event as well as National Night Out, and will once again be sponsoring the Summer Concert series. He reviewed the tonnage statistics for trash and recycling, and pointed out that the City of Belmont is above average when compared to other cities.

Ms. Del Bene noted that the amount of solid waste going to the landfill as well as the collection of bulky items has decreased. Mr. Gasparini outlined employee safety, accident review, equipment maintenance, and how they address traffic and road closures.

In response to Council questions, Ms. Del Bene described South Bay Recycling's drop-off plastic bag recycling program. She pointed out that the amount of plastic bags going to the trash is likely to decrease now that retailers are no longer using them. She concurred that the recycling symbol on products can be confusing, and further outreach and education is needed, since not all of these items can be handled by the current vendor. She also noted that not all food containers will break down in the compost. She described AB 341, which is a mandatory recycling bill targeting commercial and multi-family properties.

**RECESS: 8:20 P.M.**

**RECONVENE: 8:30 P.M.**

### **COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS**

Mayor Wozniak announced that the Parks and Recreation Department is offering a number of summer classes and camps. She noted that she presented the annual Community Service Award at Notre Dame de Namur University's (NDNU) commencement, and that the keynote speaker was State Senator Jerry Hill. She described a luncheon benefit she and Councilmember Lieberman attended for HEART (Housing Endowment and Regional Trust). She stated that the City of Belmont participated in Bike to Work Day and that Public Works Employee Brandon Tyler was named the San Mateo County Bicycle Commuter of the Year.

Councilmember Lieberman congratulated the 300 Carlmont High School students who made the math honor roll.

Councilmember Braunstein announced an upcoming National Night Out meeting. He stated that he attended the Hungarian Festival held recently at the Senior/Community Center. He pointed out that Rebuilding Together and Electronic Arts provided resources for repainting and landscaping at the Barrett Community Center.

### **AGENDA AMENDMENTS**

City Clerk Cook announced that a member of the public requested the removal of Consent Item 4-J (Resolution of the City Council Clarifying General Plan Section 2052, Policies 1 and 2, Regarding the Location of Institutional Uses Throughout the City) for separate consideration.

Councilmember Feierbach requested the removal of Consent Item 8-I (Resolution of the City Council Authorizing the City Manager to Exercise the Option for the Final Two Years of the Five-Year Agreement with Redflex for Photo Redlight Enforcement) and Item 8-J (Resolution of the City Council Awarding a Service Agreement to Deleon Realty to Market the City Owned Bishop Road Property) for separate consideration.

Councilmember Lieberman stated that he had spoken with City Clerk Cook regarding the minutes of February 26 and March 12, 2013, and that she would listen to the audio recording to clarify his issues. He requested that the minutes be tabled until the next meeting.

### **ITEMS APPROVED ON CONSENT CALENDAR**

**Motion to Receive Monthly Financial Reports**

**Adoption of** Ordinance 1071 of the City of Belmont Amending Zoning Regulations in Ordinance 360 Related to Administrative Design Review Approvals and Time for Appeals (2nd Reading and Adoption)

**Approval of** Resolution 2013-041 of the City Council Authorizing a Purchase Order for Unleaded Gasoline and Diesel Fuel from Valley Oil for an Amount not to Exceed \$25,000

**Approval of** Resolution 2013-042 of the City Council Granting a Fee Title Property Interest Adjacent to 404-406 Wessex Way (APN 040-320-300) to Caltrans for the U.S. 101 Pedestrian/Bike Bridge Project, City Contract Number 433

**Approval of** Resolution 2013-043 of the City Council Approving the Specifications, Authorization to Advertise and Award a Service Purchase Order to the Lowest Responsible Bidder to Refinish the Hard Wood Floors in the Manor House for an Amount not to Exceed \$10,000

**Approval of** Resolution 2013-044 of the City Council Approving Specifications, Authorization to Advertise and Award a Purchase Contract to the Lowest Responsible Bidder for the Acquisition of a New Aerial Work Platform (Scissor Lift) for an Amount not to Exceed \$10,000

**Approval of** Resolution 2013-045 of the City Council Authorizing Advertisement for Sealed Bids, Award to the Lowest Responsible Bidder for an Amount not to Exceed \$180,000 (estimated at \$60,000/year), and Authorizing the City Manager to Execute a Three (3) Year Service Agreement for the City's Annual Sewer Main Root Foaming

**Approval of** Resolution 2013-046 of the City Council Authorizing a Purchase Order to CompuCom Systems Inc., in the Amount of \$13,140, to True-Up the Microsoft Licensing for the Current Enterprise Agreement

**Approval of** Resolution 2013-047 of the City Council Authorizing a Three Year Microsoft Enterprise Agreement with CompuCom Systems

**ACTION:** On a motion by Councilmember Braunstein, seconded by Councilmember Warden, the Consent Agenda was unanimously approved, as amended, by a show of hands.

#### **ITEMS REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION**

##### **Resolution of the City Council Authorizing the City Manager to Exercise the Option for the Final Two Years of the Five-Year Agreement with Redflex for Photo Redlight Enforcement**

Councilmember Feierbach expressed concerns regarding the continuation of the contract with Redflex due to issues with the company as described in recent news articles. She pointed out that other cities have discontinued their contracts with this vendor. Mayor Wozniak noted that the staff report did not address the legal issues that Redflex has been experiencing.

City Manager Scoles pointed out that the contract amendment proposes to reduce the amount of revenue received by Redflex. He noted that the contract can be terminated without cause with a 30-day notice.

Police Chief DeSmidt stated that the issues with Redflex were investigated, and he noted that if staff had concerns, it would recommend termination of the contract. He explained that this is an effective photo enforcement program. He clarified that some cities began their program for revenue purposes. He noted that drivers' awareness of the cameras affects safety. He indicated that there have been no collision issues due to the presence of red light cameras. He noted that there has not been a decrease in pedestrian bike accidents, and clarified that this was not a major issue prior to the installation of cameras.

Mayor Wozniak pointed out that the green light for pedestrians is not long enough at these intersections.

Councilmember Lieberman stated that he is not aware of issues with Redflex and he has not seen any of the newspaper articles mentioned by Councilmember Feierbach.

**Bob Warner**, Redflex representative, stated that the company has made a number of changes as a result of issues with their past business practices. He noted that Redflex has been cooperating with law enforcement, and some top executives and board members are no longer with the company. He noted that the company took decisive actions when issues arose. He recommended that the City Council trust their staff. He outlined the issues Redflex had in their Chicago office.

Councilmember Warden pointed out that he did not support the implementation of the red light camera program and stated that the fine is onerous. He expressed support for discontinuing the program.

Councilmember Lieberman stated that this is a safety issue and he has observed changes in behavior since the installation of the cameras. He noted that this is a difficult intersection to enforce.

Councilmember Feierbach expressed her desire to negotiate with honest companies and that she initially supported this program. She cannot support continuing this contract.

City Attorney Rennie described how red light camera tickets are issued. He clarified that he has reviewed the issues surrounding Redflex and has no reason to believe these issues existed in California.

Councilmember Braunstein stated that this is a matter of outcome and services versus utilizing a particular company. He initially supported this program and pointed out that other cities are looking at Belmont's program as a model because of its success. He noted that Police Chief DeSmidt supports the continuation of the program and that driving behaviors have likely changed as a result of the presence of cameras. He

noted that many decisions are made on other issues besides data. He pointed out that the contract contains a cancellation clause.

Mayor Wozniak stated that she initially supported this program, and that the cameras have changed driving behaviors. She expressed concern regarding the amount of the citation and that the City Council was not given information regarding the issues with Redflex. She stated that the company is not ethical and she does not support continuing to do business with them. She expressed a desire to continue the program by seeking other vendors.

Councilmember Warden suggested lengthening the time of the yellow light which could achieve the objective of safety.

**ACTION:** Councilmember Warden made a motion, seconded by Councilmember Feierbach, to terminate the contract with Redflex. Motion failed on a vote of two in favor (Feierbach, Warden), two abstentions (Lieberman, Wozniak), with Councilmember Braunstein voting no.

**ACTION:** Councilmember Feierbach made a motion to table this matter and to bring back more information regarding the issues with Redflex at a future date.

City Attorney Rennie pointed out that the current three-year contract will expire on May 27<sup>th</sup>.

Discussion ensued regarding the termination of the contract.

Councilmember Warden pointed out that it would be a long process to find another vendor.

City Manager Scoles clarified that the proposed two-year extension has a 30-day termination clause.

Councilmember Lieberman expressed support for the extension due to the 30-day termination clause. He pointed out that the City Council has had no complaints about this program and it is achieving objectives. He would like information regarding the issues with Redflex, and noted that other companies doing business with Belmont likely have issues.

**ACTION:** Mayor Wozniak seconded the motion made by Councilmember Feierbach.

City Attorney Rennie outlined options, including an interim amendment. He stated that it was likely that Redflex would agree to an extension of the current contract.

**ACTION:** On the motion by Councilmember Feierbach, seconded by Mayor Wozniak, and approved by a show of hands (4-1, Warden no) to authorize the staff to negotiate a continuation of the current contract for 30 days until this matter can be brought back to the City Council for further consideration.

**Resolution of the City Council Clarifying General Plan Section 2052, Policies 1 and 2, Regarding the Location of Institutional Uses Throughout the City**

**Kristin Mercer**, Belmont resident, expressed support for modifying the zoning ordinance in the HRO (Hillside Residential Open Space) districts to address institutional uses, since it affects the intensification of uses in that zoning district. She does not support the proposed resolution since it addresses institutional uses throughout the entire city. She stated the impact on these uses elsewhere in the City has not been studied. She expressed support for incorporating this matter into the General Plan update. She expressed concerns regarding unintended consequences.

Councilmember Feierbach stated that there could be an issue of creating non-conforming uses. She pointed out that the original intent was to eliminate conditional uses in the HRO zoning district, which do not belong there.

City Attorney Rennie reviewed the options provided for the City Council's consideration. He noted that the proposed resolution was intended to be an interim step to clarify the policy until the matter could be considered as part of the General Plan update. He described the process for analyzing a non-permitted use.

Mayor Wozniak clarified that the proposed resolution is an interim step to suggest where institutional uses should be. She expressed concerns regarding the restriction of institutional uses only in the HRO zoning district.

Discussion ensued.



Councilmember Braunstein stated that the purpose of the resolution is to further define the City's position regarding these uses, and that it meets the needs of the City for now. He noted that this matter can be included in the General Plan update.

**ACTION:** Mayor Wozniak made a motion, seconded by Councilmember Warden, to approve the resolution as proposed, with the following language stricken from Section 1: "expresses a preference for literal compliance, i.e. that traffic actually enter and exit the property containing the Institutional Use to and from a major collector or arterial street, and that deviation from the preference be minimized, i.e. if traffic does not enter and exit the property containing the use to and from a major collector or arterial street, then the ingress and egress occur in the immediate vicinity of a major collector or arterial."

Discussion ensued.

City Attorney Rennie clarified that neither the Planning Commission nor the City Council is likely to make a finding of consistency with the General Plan if certain institutional uses were proposed on a street other than a major collector or arterial.

Community Development Director de Melo expressed concerns regarding the removal of the language relative to "immediate vicinity", as it could become a problem for existing uses.

**ACTION:** On the motion made by Mayor Wozniak, seconded by Councilmember Warden, said motion failed by a show of hands 2-3 (Braunstein, Lieberman, Feierbach no).

**ACTION:** On a motion by Councilmember Warden, seconded by Councilmember Lieberman, and approved by a show of hands (3-2, Feierbach, Wozniak no), Resolution 2013-048 Clarifying General Plan Section 2052, Policies 1 and 2, Regarding the Location of Institutional Uses Throughout the City (resolution as proposed).

#### **Resolution of the City Council Awarding a Service Agreement to Deleon Realty to Market the City Owned Bishop Road Property**

**ACTION:** On a motion by Councilmember Feierbach, seconded by Councilmember Warden, Resolution 2013-049 Awarding a Service Agreement to Deleon Realty to Market the City Owned Bishop Road Property was unanimously approved by a show of hands.

**RECESS: 10:05 P.M.**

**RECONVENE: 10:10 P.M.**

## **OTHER BUSINESS**

### **Initiation of a General Plan Amendment to Designate City-Owned San Juan Hills Properties as Open Space**

Community Development Director de Melo stated that the City Council previously discussed the disposition of the San Juan Canyon properties that are not being considered for development. He recommended waiting to include the Marsten Avenue properties in the areas to be rezoned as open space until the proceeds on Bishop Road have been realized.

Councilmember Feierbach stated that she initially supported a ballot measure to keep these properties permanently in open space without the vote of the people. She has subsequently been advised that if property is zoned parkland, it would require a vote to remove it from parkland. She requested clarification regarding the definition of parkland.

City Attorney Rennie explained that if the City puts property to use as a park, it cannot be removed from that designation without a vote. He further explained that under certain circumstances that parkland could be replaced by other property if it is deemed needed for other uses. He noted that it would be very difficult to remove parkland designation. He pointed out that the type of recreation allowed within the parkland property can be designated by the General Plan, and any amendment of the General Plan is subject to referendum.

**MEETING EXTENSION:** At this time, being 10:25 p.m., on a motion by Councilmember Feierbach, seconded by Councilmember Braunstein, the meeting was extended by 30 minutes by a show of hands (4-1, Warden no).

Discussion ensued.

Parks and Recreation Director Gervais pointed out that trails already exist on this property and are used for that purpose.

Discussion ensued regarding a potential ballot measure. City Attorney Rennie outlined the steps that would be required and noted that a General Plan amendment may be sufficient protection. He clarified that the ballot measure could designate it only as passive use.

Councilmember Warden stated that the property should be designated parkland.

Councilmember Lieberman stated that the intent of acquiring the property was to make it parkland for public use.

Mayor Wozniak expressed a desire that the property be designated open space with trails.

Community Development Director de Melo stated that uses can be addressed in the General Plan amendment.

**Aileen Turner**, Belmont resident, stated that the property is already being used as a trail system and a park. She recommended that it be kept in its current state, and expressed concerns regarding the General Plan amendment process.

**Jeannette Sacco-Belli**, Belmont resident, expressed support for keeping the property as parkland with limited use.

**Michael Schmitz**, San Mateo resident, stated that the property should be left as is and recommended that the City Council take the strongest action it can to preserve it. He noted that there is no need to develop trails, since they already exist and are maintained.

**ACTION:** On a motion by Councilmember Lieberman, seconded by Councilmember Warden, and unanimously approved by a show of hands to initiate a General Plan Amendment to designate the remainder of the City-owned San Juan Hills properties not considered for development as Open Space.

Mayor Wozniak recommended that a timeline be developed for this activity.

## **COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS**

**Verbal report from Councilmembers on Intergovernmental (IGR) and Subcommittee Assignments**

Councilmember Feierbach described a recent Four Corners meeting with officials from San Carlos. She outlined some near-term and temporary solutions to traffic issues in the area. She noted that it was a cooperative meeting.

Councilmember Lieberman stated that a capacity analysis was performed at the South Bayside System Authority (SBSA) which has some inflow and infiltration implications. He clarified that this is not a significant impact.

**Consideration of Motion to Cancel a Council Meeting for Summer Break**

Due to the lateness of the hour, this matter was tabled to the next meeting.

**Verbal Report from City Manager**

City Manager Scoles described a recent fire drill held for City Hall.

**ADJOURNMENT** at this time, being 10:55 p.m.

**Terri Cook**

**City Clerk**

Meeting audio-recorded and videotaped